

June 28, 1993

GMP #32

Commissioner's Memo #93-024

TO: District Directors
Environmental Health Managers
Environmental Health Supervisors
Environmental Health Specialists

FROM: Robert B. Stroube, M.D, M.P.H.
State Health Commissioner

SUBJECT: Policy for Permitting Sewage Disposal Systems
in Utility Company Rights-of-Way or Easements
Onsite - Permits - Utility Rights-of-Way or Easements

This GMP is the Department's revised policy for permitting sewage disposal systems in utility company rights-of-way or easements. This GMP replaces the previous policy set forth in Dr. Buttery's December 12, 1990 memorandum, which is hereby rescinded.

All environmental health staff are to remove the former policy from the Manual for Implementation of the Sewage Handling and Disposal Regulations. This new policy should be placed in their GMP manuals.

Section 4.5.F of the Sewage Handling and Disposal Regulations specifically prohibits the installation of any part of the subsurface absorption system in an underground utility easement. However, the regulations do not address the installation of sewage disposal systems in overhead utility rights-of-way or easements. **(NOTE: For the purpose of this document, the right-of way or easement referred to shall mean a right-of-way or easement for a main transmission line, not a service connection from the main transmission line to the individual's structure.)**

Utility companies usually do not grant easements to property owners for the installation of sewage disposal systems within their rights-of-way or easements. Several utility companies, however, will grant an owner permission to install a system within their right-of-way or easement with specific

conditions. Also, restrictions or conditions may have been placed upon the use of the land within the easement in the legal instrument that created the easement.

If the utility company grants permission for an individual to install any portion of a system in their right-of-way or easement and that installation is not prohibited by the legal instrument that created the easement or right-of-way, the Department shall issue a permit to construct the system if the site meets the minimum site and soil requirements of the regulations.

When issuing a construction permit for a sewage disposal system where any portion of that sewage disposal system is proposed to be placed in a utility company overhead right-of-way or easement, the permit shall be issued in the following manner:

1. The installation shall be subject to whatever restrictions are contained in the written document issued by the utility company granting the individual permission to place the sewage disposal system in their right-of-way or easement and the restrictions (if any) contained in the legal instrument that created the easement or right-of-way.
2. The construction permit shall state that the system (or a part of the system) is being installed within the utility company's right-of-way or easement in accordance with the restrictions identified by the utility company. A copy of the document from the utility company shall be attached to the permit.
3. It is the Department's position that the permit should be recorded in the grantor's index in the clerk of the appropriate circuit court to notify future owners of the unusual conditions associated with the system. If the owner refuses to record the permit, the Department shall document the refusal on the permit; however, the permit shall be issued regardless of whether the owner records the permit.
4. The operations permit shall state that the system is installed within the utility company right-of-way or easement. A copy of the utility company's restrictions shall be attached to the operations permit.

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The regulations do not prohibit installation of conveyance lines or force mains in an underground utility easement. Therefore, this policy also applies to installation of force mains and conveyance lines within underground utility easements.

pc: Office of Environmental Health Staff

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